

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Judiciary, to which was referred House Bill No. 1027, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 34-10-1-2 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) **This section**
- 4 **may not be construed to prohibit a court from participating in a**
- 5 **pro bono legal services program or other program that provides**
- 6 **legal services to litigants:**
 - 7 (1) **without charge; or**
 - 8 (2) **at a reduced fee.**
 - 9 (b) If the court is satisfied that a person who makes an application
 - 10 described in section 1 of this chapter does not have sufficient means to
 - 11 prosecute or defend the action, the court: ~~shall:~~
 - 12 (1) ~~shall~~ admit the applicant to prosecute or defend as an indigent
 - 13 person; and
 - 14 (2) **may, under exceptional circumstances,** assign an attorney
 - 15 to defend or prosecute the cause.
 - 16 (c) **The factors that a court may consider under subsection**
 - 17 **(b)(2) include the following:**
 - 18 (1) **The likelihood of the applicant prevailing on the merits of**
 - 19 **the applicant's claim or defense.**
 - 20 (2) **The applicant's ability to investigate and present the**
 - 21 **applicant's claims or defenses without an attorney, given the**

1 **type and complexity of the facts and legal issues in the action.**

2 **(d) The court shall deny an application made under section 1 of**
 3 **this chapter if the court determines any of the following:**

4 **(1) The applicant failed to make a diligent effort to obtain an**
 5 **attorney before filing the application.**

6 **(2) The applicant is unlikely to prevail on the applicant's claim**
 7 **or defense.**

8 **(e) All officers required to prosecute or defend the action shall do**
 9 **their duty in the case without taking any fee or reward from the**
 10 **indigent person.**

11 **(f) The reasonable attorney's fees and expenses of an attorney**
 12 **appointed to represent an applicant under section 1 of this chapter**
 13 **shall be paid from the money appropriated to the court:**

14 **(1) appointing the attorney, if the action was not transferred**
 15 **to another county; or**

16 **(2) from which the action was transferred, if the action was**
 17 **transferred to another county.**

18 **SECTION 2. An emergency is declared for this act.**

(Reference is to HB 1027 as reprinted February 5, 2002.)

and when so amended that said bill do pass .

Committee Vote: Yeas 7, Nays 1.

Senator Bray, Chairperson